IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 112 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NILGIRI INVESTMENTS PVT.LTD.

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

1. INCOME TAX REFERENCE No. 112 of 1993
MR MK PATEL for Petitioner No. 1
MR MANISH R BHATT for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE A.M.KAPADIA
Date of decision: 26/02/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this reference at the instance of the applicant-assessee, the following question of law has been referred under Section 256(1) of the Income-tax Act,

1961 for the assessment year 1985-86 :-

"Whether, on the facts and circumstances of the case, the Tribunal was justified in law in confirming the disallowance of claim of interest of Rs.24,360/- for late payment of Income-tax ?"

2. Mr RK Patel, learned counsel appearing for MR MK Patel states that since the question has already been concluded against the assessee, the paper book may be dispensed with.

We accordingly grant the request and the paper book is dispensed with.

3. We have heard Mr RK Patel, learned counsel for the applicant-assessee and Mr Manish R Bhatt, learned standing counsel for the revenue.

4. Our attention is invited to the decision dated 16.10.2001 in Income-tax Reference No.78 of 1992 (Kailash Investment Pvt. Ltd.) and in Income-tax Reference No.79 of 1991 (Bharat Bobbins Ltd.) in which this Court considered the decisions in CIT vs. Ashoka Mills Ltd., 218 ITR 526 and in Saraspur Mills Ltd. vs. CIT, ITR No.188 of 1983) taking the view that the assessee is not entitled to claim interest paid to the Income-tax Department as a business expenditure either under Section 37 or under Section 28 or under Section 80-V of the Act.

5. Following the aforesaid decisions, we answer the question in the affirmative i.e. in favour of the revenue and against the assessee.

The reference accordingly stands disposed of.

(M.S. Shah, J.)

(A.M. Kapadia, J.)

sundar/-